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THE MUNICIPAL COURT OF CHICAGO.

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In endeavoring to arrive at a correct estimate of the value of a system of jurisprudence, one must take account not only of the success that any court has attained in handling litigation under it, but also the character of certain of the people in the community where such court is established, their material interests and disposition toward courts and the administration of law in general. Evidence of the former disposition of the people of Chicago toward her courts and of some of the things the new Municipal Court has had to contend with and, we believe, successfully overcome, may be obtained by considering briefly with what courts the city has experimented during successive periods prior to the institution of the Municipal Court.

The Circuit Court of Cook County has been, since before the incorporation of the city, the court of general chancery and common law powers. By the same act of the legislature that granted Chicago her charter of incorporation, passed in 1837, was created the Old Municipal Court of Chicago, a court of general civil and criminal jurisdiction, concurrent with the Circuit Court within the city. This Municipal Court was abolished in 1839. The County Court of Cook

County was established in 1845, having the same jurisdiction as the Circuit Court. The name with which the County Court of Cook County was christened evidently did not suit all concerned, for in 1849 the name was changed to the possibly more euphoneous and equally alliterative title "The Cook County Court of Common Pleas." The people soon became tired of this court, for in 1859 it was "continued" as "The Superior Court of Chicago." In 1870 the Superior Court of Chicago was continued as the Superior Court of Cook County, it and the circuit court being practically branches of the same court. The only perceptible difference between the two courts, aside from their names, is that it requires separate quarters to house the clerk's offices, two clerks are necessary instead of one and double the number of expert chief deputies are required, and the process of the Circuit Court is on white paper, while that of the Superior Court is on yellow. The present county court, which has existed for years, lost its probate jurisdiction to make way for still another court, the Probate Court of Cook County. In 1853 it was deemed wise to establish the Recorder's Court of the City of Chicago, a court of concurrent jurisdiction with the Circuit Court, within the city, of all criminal cases except murder and treason, and of all civil cases where the amount in controversy did not exceed one hundred dollars. In 1870 this Recorder's Court was changed to the "Criminal Court of Cook County" and given criminal and quasi-criminal jurisdiction throughout the county. Justices of the Peace, like the poor of biblical times, we have had with us always, until they were routed in 1906 by the establishment of the new Municipal Court. The present five courts of the county, being now intrenched in the State constitution, cannot well undergo further metamorphoses, even in name.

We perhaps cannot, at this late day, determine with certainty whether these courts have been exploited in the interests of politicians desiring to create jobs, whether the changes above noted show that there existed in the minds of the people a restless dissatisfaction with procedure in the courts

and honest, though ineffective, efforts to remedy conditions, or whether they show such restless dissatisfaction placated by lawyer-legislators who had been schooled in common-law principles and were wedded to their defects, yet who must needs announce to constituents reforms in the administration of the law as evidenced now and then by a new court established or an old court reformed, at least so far as outward appearances—*i. e.*, the names of the courts—go. How well might this be announced to constituents or worn-out litigants who never look inside of law books! Whatever may be the cause of this tinkering to no purpose, we may at least reach the conclusion that ever since the incorporation of the city there has been something wrong with the administration of justice in Chicago. People have been dissatisfied with existing conditions, which, with all the tinkering, could not be remedied. May it not be possible that the condition of affairs formerly existing in Chicago, shown concretely in the disposition of the people toward her courts as above outlined, has fostered contempt for the law in those who most often defy it and disgust and lack of interest in those who, absorbed in their own affairs, are seldom called upon to come in contact with it?

Aside from these manifestations of unrest, before the institution of the new Municipal Court there existed conditions in the administration of the criminal law in minor cases in Chicago that were well-nigh intolerable. The cheap politician plied without interruption his trade of selling immunity to evil-doers, the professional straw bail bond shyster assisted to liberty those of the under-world that were "not in right" or could not stand the tax, the police magistrate scooped in members of the "craft" wherever he needed bail bond money (a fee of one dollar being exacted for the approval of every bond and a new bond being required with every continuance), and the boss over the police magistrate regulated the amounts of fines to be imposed according to the requirements of his pocketbook or the nearness that the one caught in the toils stood to the source of power. The police, seeing the corruption in the police

courts, often refused to make arrests that they knew would be used to further the mercenary ends of those in control of the courts. Chicago, together with one or two half civilized plague spots on the other side of the Atlantic, was widely described in magazine and newspaper as the crime center of the universe.

President Taft, having in mind conditions less intolerable than existed in Chicago prior to the establishment of the Municipal Court, in his very able article on "Delay and Defects in the Enforcement of Law in this Country" (North American Review, June, 1908) says: "Some of the causes for the lax administration of the criminal law may be found in the lenient, happy-go-lucky character of the American people, absorbed in their own affairs and not fully realizing that this tremendous evil exists in the community." It was the lenient, happy-go-lucky character of the people of Chicago, absorbed in their own affairs, and not fully realizing what a tremendous evil existed in the community, that made them submit so complacently to a system that, had it existed to this day, would have proven the utter shame and disgrace of the city; for very few people, except those whose hands were tainted and those whose official duties acquainted them with the situation, realized the magnitude of the evil. Defects in the civil law may make people discontented; evils in the administration of the criminal law make men anarchists. It is the administration of the criminal law that touches upon the well being of all the people—its prostitution to the base interests of the administrator of that law cuts deeply into the breast of every victim and every citizen cognizant of the injustice done, either to the State or to the accused. And yet the system was worked so under cover in Chicago, the victims being largely vicious repeaters who quietly paid the toll as in the nature of a license to continue in business, that when the hue and cry was raised against the justice-shop system, it was almost exclusively because, in civil cases, the defendant was summoned to an outlying country town and often forced to submit to an unjust judgment when an appeal would have

remedied the error! the people generally seemed quite unconcerned with the greater evil.

Then the people, hardly realizing that they were affecting the administration of the criminal law, threw off the yoke of the pernicious system and established the Municipal Court. The old order of things has been changed. The cheap politician has lost his job, there are no more scandals, no escapes via the bail bond route, and no levying of tribute by the court upon vicious occupations. Such an immediate and complete transformation from the "good old easy days," when the cheap politician ruled, that sociologists have been amazed, they counting on years as necessary to rid a community of such a plague.

In the administration of the civil law there has been little less remarkable improvement. On the amount of work turned out by the court we will refer to the testimony of a thoroughly unprejudiced witness. On January 12th, 1910, the Committee on Judiciary of the National House of Representatives had on hearing the proposed bill to regulate the judicial procedure of the courts of the United States. There attended the committee a number of gentlemen from different parts of the country representing the American Bar Association, one of whom, the Hon. Samuel Scoville, Jr., of Philadelphia, stated to the committee as follows in reference to the Municipal Court of Chicago:

"This is a business man's court organized on business principles by the business men of Chicago after they had become tired of the brand of delayed and perverted justice that had long been prevalent there. The figures are absolutely astounding and show what can be done when judges and lawyers get together and try to see how quickly and efficiently they can obtain justice for their clients. There are twenty-eight judges and last year some six of the County Judges assisted and I suppose they did this year. Judge Olson (Chief Justice of the Court) writes that for the year ending December 4, 1909, there were 48,490 civil cases disposed of, 10,130 criminal cases, 61,751 quasi-criminal (breach of city ordinances) and 6,460 preliminary hearings (felony cases); in all there were finally disposed of 126,861 cases of all kinds against 125,713 cases in 1908. Total money judgments were obtained amounting to $3,757,090.55, or $488,728.61 more than 1908. The court received for the year $710,401.58 and paid back to the taxpayers $559,587.93. Outside of rent the court costs the taxpayers only about $90,000. Their system is a model of efficiency. They have abolished magistrates and grand juries in connection with this court and a citizen makes an information either to a district

attorney or to a police officer. The matter is taken directly to the judge and the case may be tried the same day, always within the week. In 1908 less than one-quarter of one per cent. of the criminal cases were tried with a jury, although one may be had upon demand. To my Pennsylvanian ideas, and I guess to Mr. Wheeler's New York ideas, these figures are simply revolutionary—I hope evolutionary for our own States."

One thing that has contributed perhaps more than anything else toward the success of the Municipal Court has been the expedition with which causes have been tried. Even with the vast amount of litigation in Chicago there is no civil cause in the court where a jury is not demanded in which, if the parties desire a trial and the evidence is at hand, they cannot get a hearing in from five days to three weeks after the cause is started and where a jury is demanded a trial in from one to two or three months. Criminal and quasi-criminal cases likewise are sometimes tried on the very day the offense is committed and usually within two or three days thereafter. If a jury trial is demanded, several days longer often intervene before trial. This is a great contrast with other courts of large cities, where such speedy trials would never be dreamed of.

This expedition in the trial of cases, quite in contrast with the slow and cumbersome processes of other courts, has done much to remove a stigma that has long rested upon the courts and the profession of law. In a large city where people are constantly changing, and witnesses apt to remove or die, or, in the devotion to other private interests, forget all the particular circumstances of a case, to expect that justice may be obtained where the trial is had months or years after the arising of a controversy, requires more than ordinary imaginative powers. This is particularly true of personal injury litigation, which, perhaps more than any other class of cases, has contributed to the congestion of work in the courts. The question of proper care on the part of the plaintiff and of negligence on the part of the defendant in such cases require such fine distinctions that the evidence is peculiarly susceptible of being overdrawn or remolded to fit the exigencies of a case and when, as

often happens in these trials,witnesses to an accident in a crowded portion of the city, never having heard of each other before, face each other in court months or years after an accident and on cross-examination are asked to testify to matters that never occurred to them since the moment of the accident, if at all, everything except the main features of the evidence having escaped their memories, there is great opportunity for manufactured evidenced of the positive sort to outweigh that of honest, yet forgetful and uncertain witnesses. This class of litigation, with the lapse of time before trial, has furnished a most fruitful field for unscrupulous lawyers and claim agents, has made them bold in causing witnesses to disappear and in corrupting witnesses and jurors. The ambulance chaser and the claim agent have often been brought into disrepute, not because their business is inherently disreputable, but because of the easy opportunity to take advantage of the shameful condition of the court's calendars, and then, their hands being tainted, it becomes easier to seize every opportunity for corruption presented. It has often been noticed in the trial of this class of cases in the municipal court that if they are tried shortly after an accident occurs, witnesses cannot be so bold in overdrawing or manufacturing evidence, and there is not apt to be nearly so much contradiction in the testimony. The litigants, whether they win or lose, are better satisfied with the result.

As to purely civil law causes, the municipal court has jurisdiction of all actions or contracts, express or implied, for any amount whatever, but in actions in tort the jurisdiction is limited to claims for one thousand dollars or less. This has tended to make the court largely a commercial court. The personal injury litigation involving more than one thousand dollars is mostly confined to the other courts of the county, and few commercial law causes are now brought in those courts. The Supreme Court of Illinois has held (*Chudnovski* v. *Eckels,* 232 Ill. 312) that one who has taken passage with a common carrier and paid his fare, and has been injured because of the negligence of the

carrier, may sue for any amount in the municipal court as for breach of implied contract. This decision is often referred to as unfortunate for the municipal court, for it is feared that the Supreme Court may extend the doctrine of implied contract to include many if not all kinds of personal injury causes, when the court may become flooded with that class of litigation. The court has about all the work it can attend to with its present corps of judges.

The work of the court has been as thorough as it has been expeditious, as is evidenced in those causes that have gone to the supreme court, where affirmances and reversals bear practically the same proportion as in causes from all the other courts of the State. Thoroughness and expedition we place as the net results that entitle the court to credit for its work. It has proceeded farthest from those conditions that cause that eminent authority, President Taft in the article above referred to, to say:

"If one were to be asked in what respect we had fallen farthest short of ideal conditions in our whole government, I think he would be justified in answering, in spite of the glaring defects in our system of municipal government, that it is in our failure to secure expedition and thoroughness in the enforcement of public and private rights in the courts. I do not mean to say that the judges of the courts are lacking in either honesty, industry or knowledge of the law, but I do mean to say that the machinery of which they are a part is so cumbersome and slow and expensive for the litigants, public and private, that the whole judicial branch of the government fails in a marked way to accomplish certain of the purposes for which it was created."

Several causes may be assigned for the phenomenal success of the municipal court. President Taft further says:

"In my opinion the best method of securing expedition in disposition of cases is to leave to the judges of the court the forming of the procedure by rules of court, imposing upon them the obligation to adopt rules making the course of litigation as speedy and inexpensive as possible."

The judges of the municipal court have such power to form the procedure by rules of court. Other courts are usually bound down by constitutional provisions that the judiciary shall not exercise legislative powers. But this court was created by the legislature pursuant to an amend-

ment to the constitution, which provided that the practice of the municipal court should be such as the legislature should prescribe. The legislature has granted to the judges large powers to make rules of court, under which they have adopted certain sections of the practice act governing all other courts of record in the State and such sections as are deemed not suited to the court have been discarded. No pleadings other than a simple statement of claim have ever been required in cases involving one thousand dollars or less, but reforms in practice of a most sweeping character, chief of which is the abolishing of written pleadings, in cases involving claims of more than one thousand dollars, have been tentatively adopted by the judges, subject to further investigation and discussion as to their advisability by the bar. It is proposed to put these new rules in force on April 1, 1910.

Much time of the court is saved by requiring demands for injuries to be made at the time of filing suit or entering appearance and paying a six dollar fee therefor. The fee of course is slight in comparison to the cost of the jury, but while in other courts juries are allowed as a matter of course, in the municipal court this simple rule keeps many cases off the jury calendar and hence causes can be tried expeditiously.

The most efficient means to expedition and thoroughness in the court is the centering in one head of the powers and general superintendence of the business of the court. Patterned after the Judicature Act of Great Britian, the law provides that the chief justice of the municipal court, in addition to the exercise of all the other powers of a judge of the court, shall have the general superintendence of the business of the court. He presides at meetings of the judges, assigns the associate judges to duty in the different branch courts, changes such assignments as often as he deems it necessary for the prompt disposition of the business of the court, and it is made the duty of each associate judge to attend and serve at any branch court to which he may be so assigned. The chief justice superintends the preparation

of the calendars of cases and makes such classification and distribution of them upon different calendars as he thinks proper and expedient. The chief justice then has practically the powers of a general manager of a large business concern, there being about two hundred and fifty officers directly connected with the court, in addition to all police officers of the city of Chicago, who are made ex-officio deputy bailiffs of the court, and required to perform from time to time such duties in respect to cases within the jurisdiction of the court as may be required of them by the court or any judge thereof. The judges are required to meet together at least once in each month, excepting the month of August, at such hour and place as may be designated by the chief justice, and at such other times as may be required by him, for the consideration of such matters pertaining to the administration of justice in the court as may be brought before them, and at such meetings they shall receive and investigate, or cause to be investigated, all complaints presented to them pertaining to the court and to the officers thereof, and to take such steps as they may deem necessary or proper with respect thereto.

The expedition with which matters are executed in the court is shown in the system of auditing under the direction of the chief justice and in the accounting of the finances of the court. On the morning after the close of each month, or oftener if desired, a statement of the finances of the court and of the number of cases begun and disposed of during the month is placed before the chief justice for such action as he deems proper. Complaints are also made and investigated with promptness.

A criminal warrant record was established by the judges, providing for recording the time of issuing each process ordering arrest, the name of the officer to whom delivered, and the date of return and manner of execution thereof. This rule as to warrant record practically nullified a rule passed by the police department of the city a number of years ago, which provided that no patrolman should serve any warrant without the direction of his superior officer,

which in the old days of magistrates permitted certain police officers to dictate arrests to be made; but under the practice now in vogue every patrolman is personally amenable to the orders of the court. A record is preserved of every warrant in the hands of the police. Warrants are no longer held up or used for ulterior purposes but the command of every process is obeyed without delay. The chief clerk and chief bailiff have the sole power of appointing their respective deputies, but they may be discharged by the judges acting as a body.

The power of central management was very forcibly illustrated some months ago when numerous complaints were made to the chief justice that one of the associate judges was usurping illegal power in that he habitually committed defendants, charged with, but not convicted of, violation of city ordinances, to jail for days, sometimes weeks, the records showing: "without bail," that he required excessive bail, $10,000.00 in some instances, for such offenses, that he often discharged those whom he found guilty, that he caused the re-arrest, incarceration and conviction of those whom he had previously found not guilty, and that he often disposed of the liberties of persons before trial very much according to his own caprice, their constitutional rights being habitually invaded. The charges were of such grave character that the judges must act under the provision of the municipal court act requiring them to investigate complaints and act in respect thereto. A committee of the judges was appointed to take evidence, which being submitted to the body of the judges, was found to sustain the charges, and the judges recommended that the chief justice remove the associate judge in question from the trial of certain classes of causes.

If we may attempt to tell in a few words what is the most efficient power for expedition and thoroughness in the court, we will say that it is the centralizing of power in the judges as a body, and, on the administrative side, in the chief justice. With such a system in vogue, the greatest amount of work is obtained from every department of the

court. Time is not lost by officers of the court or by juries. Reform in judicial procedure, much advocated of late, will be of slight worth without a central direction of affairs and without adequate responsibility in the judges as a body. And yet the office of chief justice is one of such power that in the hands of an unscrupulous person the court might be turned into an institution of the worst kind of oppression and injustice. The court has been particularly fortunate in having an able and progressive body of men as judges and a chief justice of untiring energy in whom the qualities of unusual administrative and high judicial ability are peculiarly combined. To these, more than to anything else, may be attributed the phenomenal success of the court.

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CHICAGO.